IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 14010 of 2004

Between:

Karam Seethamma, D/o Ramaiah,
R/o Mamidigudem Village, Charla Mandal, Khammam District

..... PETITIONER

AND

1 The Sub-Collector, Bhadrachalam, Khammam District
2 The Mandal Revenue Officer, Cherla Mandal, Khammam District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction, more particularly one in the nature of Writ of Mandamus, declaring the orders passed by the 1st respondent in Rc.No.1/748/2004 dated 16-07-2004 suspending the authorization of the petitioner to run Fair Price Shop of Mamidigudem, Cherla Mandal, Khammam District, as illegal, arbitrary and oppose to the principles of natural justice and consequently direct the respondents to permit the petitioner to run Fair Price Shop No.46017 of Mamigudem, Cherla Mandal, Khammam District and pass such other order or orders.

Counsel for the Petitioner: MR.P.RAVI SANKAR

Counsel for Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following:

O R D E R:

Heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

The petitioner is the authorised Dealer of the Fair Price Shop of Mamidigudem, Cherla Mandal, Khammam District. This writ petition is filed aggrieved by the order, dated 16-07-2004, passed by the first respondent, whereunder the authorisation of the petitioner was suspended on the basis of the report of the Deputy Tahsildar (CS), Venkatapuram, alleging that on 29-05-2004, the petitioner had diverted ten quintals of P.D.S. rice into black market.

This Court, having *prima facie* found that the impugned order of suspension was in the nature of final order by way of substantive punishment and since the petitioner was not afforded an opportunity to rebut the allegation, by order, dated 11-08-2004, granted interim suspension of the order of suspension, dated 16-07-2004.

Now a counter-affidavit has been filed on behalf of the respondents, in which it is stated that the authorisation of the petitioner was suspended in exercise of the powers vested under clause (4) of the

Andhra Pradesh State Public Distribution System Control Order, 2001, since a case was made out that the petitioner had indulged in diversion of P.D.S. rice into black market.

However, even in the counter-affidavit, nothing has been stated whether any enquiry has been initiated against the petitioner into the alleged irregularities. It is also clear from the counter-affidavit that the petitioner was not issued any notice calling upon to explain the allegation of diversion of P.D.S. rice into black market.

There can be no doubt that the respondents are entitled to initiate disciplinary proceedings against the petitioner and the authorisation can be suspended pending enquiry into the allegations. It is also open to suspend the authorisation by way of penalty, but such an action requires prior notice to the dealer and enquiry into the allegations. Since nothing has been placed before this Court to show that any enquiry is pending against the petitioner into the alleged diversion of P.D.S. rice to black market and since admittedly the petitioner was not afforded any opportunity to rebut the said allegation, the impugned order, dated 16-07-2004, being in violation of the principles of natural justice cannot be sustained. Accordingly, the same is set aside and the writ petition is disposed of leaving it open to the respondents to take necessary action following due process of law. No costs.

(G. ROHINI, J)

Date: 11-11-2004

ghn

To

1 The Sub-Collector, Bhadrachalam, Khammam District

2 The Mandal Revenue Officer, Cherla Mandal, Khammam District

3 Two C.Cs to the Government Pleader for Civil Supplies, High Court Buildings, A.P., Hyderabad (OUT)

4 Two C.D copies